

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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MAY 2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/522, 359 03/09/00 HAMAD

W A-6756

EXAMINER

IM52/0815

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FEES/USON: 1

ART UNIT

PAPER NUMBER

1774  
DATE MAILED:

08/15/01

A G

**Please find below and/or attached an Office communication concerning this application or proceeding.****Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. 09/522,359	Applicant(s) HAMAD ET AL.
	Examiner Lawrence Ferguson	Art Unit 1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 March 2000.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-17 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to crack-resistant paper or board, classified in class 428, subclass 211.
  - II. Claims 9-15, drawn to process for producing disposable and decomposable food container, classified in class 156, subclass 39.
2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by mixing, extruding and molding a polymer material and double-coating a cellulose fiber network web with the molded polymer material.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. A telephone call was made to Stewart Gitler on July 25, 2001, an election was made without traverse to prosecute the invention of group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-15, withdrawn

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from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Objection – ( Minor Informalities)***

6. Claim 4 objected to because of the following informalities: “...approximately 5%-20% a basis weight” is improper claim language. It is recommended that either “a” be deleted or the proper punctuation be used. Appropriate correction is required.

***Claim Rejections – 35 USC § 103(a)***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caldwell (U.S. 5,876,792) in view of Conforti et al. (U.S. 5,620,819).

9. Applicant claims a crack-resistant paper or board.

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10. Caldwell discloses a thinnable polymer composition into a porous web where the polymer composition is applied onto a surface of the web having structural elements (abstract). Caldwell discloses structural elements as fibers or filaments (column 4, line 39). Caldwell discloses paper having a web made of fibers in the form of yarns or staples (column 5, lines 29-40). Fibers constitute geometric formations in diamond-shape form. Caldwell discloses blades across the surface of the sheet and the controlled placement of the polymer within the sheet (column 5, lines 49-51). Caldwell discloses an acrylic copolymer (column 23, lines 19-20) as a web in the polymer. Caldwell does not disclose the weight percentage of the paper or board. The weight percentage is a matter of optimization. It would have been obvious to one of ordinary skill in the art to optimize the weight percentage of the paper since discovering optimum or workable ranges involves only routine skill in the art. Caldwell does not disclose the use of the particular polymers to be used in the instant invention of styrene butadiene, latex, cellulose acetate butyrate, polybutadiene, acrylonitrile butadiene, polyhydroxy butyrate or cellulose acetate butyrate.

Conforti teaches a network formed by a polymer (column 7, line 54) which has abrasion resistance. Conforti teaches paper formed material containing web material (column 10, lines 40-52). Conforti teaches acrylic polymers as the polymer of the web (column 11, line 61). Conforti teaches cellulose acetate butyrate and styrene butadiene (column 12, lines 60-62) as abrasion resistant polymers.

It would have been obvious to one of ordinary skill in the art to include the cellulose acetate butyrate or styrene butadiene of Conforti to the abrasion resistant paper of Caldwell because Conforti teaches the conventional use of these materials in paper formed web materials that have abrasion resistant properties.

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***Claim Rejections – 35 USC § 103(a)***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ungar et al. (U.S. 4,520,062) in view of Conforti et al. (U.S. 5,620,819).

9. Applicant claims a crack-resistant paper or board.

10. Ungar discloses a thermoplastic or thermosetting abrasion-resistant substrate consisting of an ultra-thin web and cellulose (abstract). Ungar discloses ultra-thin abrasion resistant layers that are thermoplastic and thermosetting that is capable of being coated on a surface (column 2, lines 10-15). Ungar discloses the substrate can be a thermoplastic, thermosettable board where the web can be applied in sheet form (column 3, lines 26-30). A sheet is analogous to paper. Ungar discloses the abrasion resistance coating can be shaped and has impregnated products (column 8, lines 43-55). Ungar does not discloses

Conforti teaches a network formed by a polymer (column 7, line 54) which has abrasion resistance. Conforti teaches paper formed material containing web material (column 10, lines 40-52).

It would have been obvious to one of ordinary skill in the art to include the polymer of Conforti to the abrasion resistant board or sheet of Ungar because Conforti teaches the conventional use of using polymeric material in paper formed web materials that have abrasion resistant properties.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-5408 for regular communications and (703) 305-3599 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.

  
Lawrence D. Ferguson  
Examiner  
August 9, 2001

CYNTHIA H. KELLY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

